SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT

FOURTEENTH MEETING OF COMMISSION A
HELD ON THURSDAY, 19 JUNE 1947 AT 2.30 P.M.
IN THE PALAIS DES NATIONS, GENEVA.

M. Max SUETENS (Chairman) (Belgium)

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Office, Room 220 (Tel. 2247).
CHAIRMAN (Interpretation): The meeting is called to order.

We will proceed with our Agenda and take up Articles 31, 32 and 33.

This is an extremely important section covering state trading. In connection with paragraph 1, there are two amendments; the first moved by the Czechoslovak delegation and the second by the delegate of the United States. I will call upon both delegations to speak to their amendments.
H.E. Z. AUGENTHALER (CzechoSlovakia): Mr. Chairman, Gentlemen, during the discussion on the statement of the Belgian delegation I had the honour to point out three aspects connected with state-trading operations.

The first was that it is a mistake to consider state-trading as opposed to free-trade and that in our view the opposite of free-trade is protectionism, as state-trading actually may be either protectionist or tending to an expansion of world trade.

Secondly, I pointed out that we are living in a period when entirely new forms of economic life develop and that is is extremely hard to make precise provisions for something which up till now has no definite form and which operates under entirely abnormal conditions.

Thirdly I remarked that the whole issue is obscured today by certain considerations which in their substance have nothing to do with state-trading itself but which are just an expression of abnormal post-war circumstances such as are shortages of commodities, scarcities of freely convertible currencies, disequilibrium in balances-of-payments and so on, all cases for which there are special provisions in the Charter.

I suppose that the provisions of Article 31 and 32 - I have no definite feeling as to Article 33 - are intended to come into force only when the special difficulties I mentioned above, that is, the disequilibrium of balances-of-payments and shortages of commodities, disappear and when the state-trading countries will be faced by a situation in which their exports could freely flow into some markets of other countries and when all conditions will exist in the state-trading countries for a removal of restrictions on import or export.
Now as to state-trading operations themselves, not only you, but also we, find it extremely hard to work out a very precise definition of rules which would apply in the same way to every specimen of state-trading. Many countries have entirely different forms of state-trading and most of them are functioning in entirely different ways.

As sea-faring countries represented here know very well, it is customary to baptise ships by breaking a bottle of champagne against their sides. I doubt that the same procedure is suitable for baptising babies.

I think that it might be of some use if I explain what kind of state-trading we have in Czechoslovakia and how it works, as all this might help us in our state-trading discussions.

First of all, we have monopolies established and operated mainly for revenue purposes or for purposes of health and security. Some of them are centuries old such as, for instance, the tobacco and salt monopoly or the monopoly for explosives. There were never any troubles with their functions and I do not see any necessity for some new provisions in this respect.

The second group of state-trading enterprises is especially intended to maintain stable prices for some primary commodities, mainly foodstuffs, and to assure the farmers of a certain degree of stable incomes. In these cases there is actually no single organization but more or less a kind of association of producers, mills, distributors, and so on, with an obligation to buy from the farmers for some fixed prices and to sell at fixed prices, too. The imports and, in the end, the exports, if there are any, are done on a strictly commercial basis. It goes without saying that purchases or sales abroad are in direct connection with the results of home-crops. There is a tendency of the Czechoslovak Government to plan Czechoslovak home production
in accordance with the recommendations of FAO which means that we have no intention to increase production or to afford some special protection to these products for which there are no natural conditions in Czechoslovakia. That is, for instance, why our plan intends to reduce the acreage cultivated for wheat and some similar transformations of this kind.

There is a third category of what you might call state-trading enterprises in our country, but I sometimes doubt very much if this category falls under the definition of state-trading at all. Under this category falls what we call nationalized enterprises, that is, mines and large key industries. These enterprises actually work in exactly the same way as private enterprises. The state has no control over their commercial activities. Now you may ask me, what exactly may be the difference between these enterprises and private enterprises, and here we come to a point which is only superficially dealt with in the Charter, namely, economic planning. The sense of this planning is, expressed in an extremely simplified form, that the enterprises themselves inform the planning centre about their production possibilities and how they envisage their work. On afterwards the need of raw materials and so available in the production is being calculated. If it becomes evident that for instance the requirements of industries producing luxury goods are too large and that we would be unable to procure all the materials required by them, because they are neither available in the country nor, for balance-of-payments reasons, can be supplied from abroad, and that possibly we would be faced with a situation that we would not have sufficient raw materials for the production of some essential goods, then the supply of raw materials for non-essential purposes is cut down even if, for instance, the
production of some luxuries would be more profitable than the production of some essential articles. This is the task being given to the industries but from that moment on the state administration interferes in no way with their commercial activities. These industries are buying and selling according to their own criteria and are obliged by their very statutes to work according to commercial considerations.

These enterprises, also, are not controlled as to their exports. As to imports the only means of control are those used for balance-of-payments reasons and if there is a plan for imports it is a very flexible one, based on the requirements of state and private enterprises and actually consisting only in an equitable distribution of foreign currencies available at any moment. I think that this is nothing particular to state-trading, as every country which finds itself in balance-of-payments difficulties has to proceed in exactly the same way. That is why we suppose that what is actually called here state-trading, will become effective and will be clearly defined only in a few years, when the reconstruction period will be over, and that only at this moment will it take a precise shape.

When I said yesterday that in our opinion the rules of state-trading in connection with the international markets should be worked out in the same way as customary law in the Anglo-Saxon countries is created, there was neither a lack of goodwill from our side nor a tendency to defer the whole problem.

In the years to come we see actually no practical difference at all as to the working of economies of other countries in balance-of-payments difficulties and ourselves and we would need no special provisions as to state-trading whatsoever.

I hope that these few remarks may be of some use when we consider articles 31 and 32 about which, I repeat, we feel rather doubtful. But we are trying to do our best to put the Charter into force and I hope we will succeed in our work here.
Now when we were working on our Amendments, we noticed that some of our Amendments are very close to those presented by the United States.

In certain Amendments may be there are differences, but we would be obliged if we can have an opportunity to discuss this matter with the U.S. Delegations, and to see, if possible, how to present a common Amendment for Articles 31 and 32.
CHAIRMAN: The Delegate of Czechoslovakia.

H.E. L. AUGENHALER (Czechoslovakia) (Interpretation): Mr. Chairman, during the interpretation of my speech, the English word "controlled" was interpreted into French by the same word. Personally, I do not think that this interpretation is quite correct. We had in mind rather the words "directed" or "guided".

CHAIRMAN: I call upon the Delegate of the United States.

Mr. John W. EVANS (United States): Mr. Chairman, before discussing our amendment, I should like to express our appreciation of the spirit of co-operative-ness and openmindedness with which the Czechoslovak Delegate has approached the study of our amendment. I hope with him that we can agree between ourselves on a text which might not be too far from either of those already presented, particularly in the case of Article 31 in which I think the approach of the two Delegations was quite similar, although there are differences in detail.

With that in mind, I will not attempt to discuss the detailed differences between these two texts, but I believe I owe it to the other Delegates present to present at least a brief explanation of what the United States had in mind in its proposals for the redrafting of Paragraph 1 of Article 31. For the most part, we consider these changes to be strictly drafting changes, even though they may appear to be rather far reaching. We have attempted to improve what seemed a somewhat cumbersome text, particularly the rather difficult reference to the countries in which the enterprise was located (which got us into some rather complicated grammatical problems) and we think we have worked out a formula which does precisely what the original draft did in that respect, but states the rule in a very much simpler form by use of the phrase "affecting international trade".
Our second main change was one that had to do entirely with eliminating what had been criticised at times as an economic anomaly in the previous paragraph. I think it was clear that the operative phrase of the previous paragraph was that enterprises which came within the scope should carry on those operations in international trade according to commercial principles, but because that had been introduced by a phrase which referred to: "treatment no less favourable than" it raised the question as to whether we were implying that commercial principles in the case of a monopoly necessarily meant that exactly the same price would be offered or that the goods would be offered for the same prices in different simple markets. In order to avoid that implication, we made a change of recasting the first requirement in terms of the general principle of the Most-Favoured-Nation treatment, parallel with the provision of Article 14 with respect to the operation of privately owned enterprises, and have kept as before the operative provision, the provision for purchases and sales under commercial considerations. The only substantial change, in our opinion, that we have introduced is to provide a mechanism whereby the criterion of "commercial considerations" may have an opportunity truly to operate, in the final phrase "through public offers or bids or otherwise, shall afford the enterprises of all members full opportunity to compete for participation in such purchases or sales." We have tried to reflect in a short phrase, a general principle which does if it is to remain in existence. and must control the operations of a commercial enterprise.

That, Mr. Chairman, I think, is all I can add to the explanations in the annotated agenda, unless other members of the Commission would wish to raise any particular questions with regard to it.
Mr. J.A. MUNOZ (Chile): Mr. Chairman, as we see it the fundamental change in the amendment proposed by the United States delegation, consists in replacing the provision of the previous text which said that: "State trading enterprises shall accord to the commerce of the other members "treatment no less favourable than that accorded to the commerce of any country ...." etc. by a new provision which says that these enterprises "shall act in a manner consistent with the principle of general Most-Favoured-Nation treatment". We agree with the United States delegation that this is not a modification of substance from the New York text, and as it is explained in sub-paragraph (b), must be interpreted as meaning that such enterprises, in making their external purchases or sales, must be guided solely by commercial considerations. If this is its true interpretation, we would have no objection to the United States delegation's amendment. We would, Mr. Chairman, however, at this point wish to refer to the comments made by the United States delegation to the effect that the modifications to this paragraph, apart from simplifying the language, have, as their object, to eliminate the possible inference that Most-Favoured-Nation treatment by state enterprises might require the fixing of identical prices to buyers and sellers in different markets.

You will recall that, at the request of our delegation, the Drafting Committee in New York placed on record in its Report on page 27: "that the charging by a state enterprise of different prices for its sales of a product in different markets, domestic or foreign, is not precluded by the provisions of Article 31, provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets".

We understand that the new text proposed for this paragraph by the United States delegation confirms this interpretation, and we would therefore request that, in the Final Report of this Preparatory Commission, this interpretation goes on record - that is that the fixing of different prices in different markets for reasons of competition is included in the expression "commercial considerations".
Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I would like to deal with two of the points mentioned by the United States Delegate. The first is the one to which the Delegate of Chile has just referred; that is, the substitution of the phrase about the principle of general Most-Favoured-Nation treatment for the previous text, which referred to treatment no less favourable. On the face of it, it seems to us that that is not in itself an extremely explicit change. It does not fully explain just what the underlying difference is, and I entirely agree with the Chilean Delegate that it does remain very necessary to keep on record what is stated in the note at the foot of Page 27 of the New York Report, namely, "that the charging by a State enterprise of different prices for its sales of a product in different markets, domestic or foreign, is not precluded . . . provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets."

I quite agree with the Chilean Delegate that that explanation ought to be placed on record in conjunction with this paragraph.

My second point relates to the words which have been introduced at the end of (b), namely, "... through public offers or bids or otherwise, shall afford the enterprises of all Members full opportunity to compete for participation in such purchases or sales." Our feeling is that that wording is too narrow. It seeks to tie up the State trading enterprise in a tighter way than the private trading
enterprise. The private trading enterprise will have a wide variety of methods at its disposal. Although it cannot seek public tenders, nor follow the methods of a public auction, it will have many more strings to its bow, so to speak, and we feel that the State trader should have just as full opportunity in the methods it employs, so long as they are truly commercial, as the private trading enterprise.

For that reason we suggest a somewhat less tight form of words, to go like this: "and shall afford the enterprises of all Members fair opportunity to participate in such purchases or sales." That appears to us to get the essential underlying idea without tying up too closely the exact methods which the State trade is expected to follow.
Dr. T.T. CHANG (China): I would like to say a few words concerning what we think of paragraph 1 of Article 31; after that I would like to explain our attitude to the comments of the United States delegation.

Although the Chinese delegation has not introduced an amendment on paragraph 1 of Article 31, we do think that the text is insufficient. Our main objection is to the first part of the second sentence which reads:

"to this end such enterprise shall, in making its external purchases or sales of any product, be influenced solely by commercial considerations, such as price, quality, marketability", etc.

The text does not cover cases in which international loans are involved. Where an international loan is involved, it is not always possible for a country or a state-trading enterprise in making its external purchases and sales to be influenced solely by commercial considerations. China has a loan arrangement with certain foreign countries, and cannot therefore support the text entirely.

As to the amendment proposed by the United States delegation, we oppose it in connection with certain terms. Firstly, we fear that the use of the term "general most favoured nation treatment" may lead to confusion or to undesirable influences. This possibility is also recognised by the United States delegation in its own comments at the bottom of page 3 of the annotated agenda (W/198). The United States delegation has even found it necessary to propose a supplementary paragraph to avoid confusion. We wonder whether confusion can be entirely avoided, and whether the term "non-discriminatory treatment of state favored enterprises" is not sufficient for our purpose here. We therefore have the intention of supporting the phrasing used in the text.
Secondly, the amendment does not cover cases in which inter-
national loans are involved, and in such cases state-trading enter-
prises may not be able to make purchases or sales solely in accord-
ance with commercial considerations.

Thirdly, we are wondering whether the matter can be altered, 
particularly when a certain product is urgently needed and which 
should be disposed of in a short time, or when the policy of a 
country is concerned.

For these reasons we cannot agree with the amendment intro-
duced by the United States delegation.

Mr. JOHN W. EVANS (United States): I should like to answer 
some of the remarks made by the delegate of China. The first point, 
dealing with the problem created for the countries who are the 
recipients of international loans, was, I believe, covered in the 
Report of the first meeting of the Preparatory Committee. On page 
17, section E, note no.3, the statement is made:

"The view was generally held that a country receiving 
a loan would be free to take this loan into account as a 
'commercial consideration' when purchasing its requirements 
abroad. The position of countries making such 'tied loans' 
was another question."

It was our own feeling when we considered this possibility 
that that is the correct interpretation, and I think the delegate of 
China has nothing to worry about at least in that respect.

The second point made by the delegate of China has to do with 
the interpretation of the most-favoured-nation principle. I would 
point out that our reference to "confusion" in our comments dealt 
with the confusion created in the earlier draft. We do not think 
there is any confusion in our amended draft, because the amended draft 
makes it much clearer than the original draft that the requirement 
of commercial considerations is in fact the operative requirement.
It makes it very clear that that is the interpretation to be placed on the most-favoured-nation treatment, whereas the connection between the two in the earlier draft was, I think, much less clear.

I also want to say with respect to our added wording - this may be partially an answer to both the United Kingdom delegation and the Chinese delegation - that we did not provide that "public offers or bids" was to represent the only means whereby a Member might comply with this general provision. We added the words "or otherwise" in order to take care of the quite obvious fact that business enterprises do not always do their business on the basis of public offers or bids.

CHAIRMAN (Interpretation): The delegate of France.

M. C. IGONET (France) (Interpretation): Mr. Chairman, I would like to make two remarks concerning the statement made by the representative of Czechoslovakia, which will include, at the same time, remarks concerning the statements made by the delegate of China and the delegate of the United Kingdom.

First, where the statement of the representative of Czechoslovakia is concerned, I would like to extend my full support to it since we are in a similar situation, and we believe that the drafts of Article 31 and 32 should specify that during the transitional period, when a scheduled programme of exports is established, provisions should not apply which are normally applicable to a state enterprise. It is quite obvious that in cases, especially during the transitional period, when the external trade is ruled by fixed programme, the volume of this trade cannot be influenced by references to prices nor by the sources of the purchase. Therefore, during the transitional period, the necessary exceptions should be made from the cases which are provided for by the Charter for a state enterprise, and the restrictive measures which are provided for by the Charter for state enterprises should not apply to them during the transitional period.
My second remark aims at the statement that a State enterprise should be considered in the same light as a private enterprise. That is, that if State enterprises are not allowed any extra privileges they should not bear any additional burdens - and if private enterprises are allowed a certain discrimination in their purchase discriminations, which are provided for by the Charter, and which make allowances for commercial considerations, loans, and even for a long-range commercial policy, these same discriminations should also be allowed to a State enterprise which ought to be considered exactly in the same light as the private enterprises are.

CHAIRMAN: The Delegate of Canada.

Mr. DEUTSCH (Canada): Mr. Chairman, I listened with much anxiety to the remarks of the Czechoslovak Delegate and the remarks just made by the Delegate of France.

I appreciate the particular difficulties that some countries faced during the transitional period, but I am not clear that that has any relevance particularly to what we are now discussing.

It seems to me that the problems of countries during the transitional period will be dealt with in the sections dealing with the balance of payments, and where there are import programmes, presumably those import programmes are based on an adequacy of exchange resources, and those programmes would be carried out under these provisions of the balance of payments, and I do not think there is any need to make any revision in the State-trading section. So I do not think that there is any need here in these provisions to take care of shortages of exchange which exist during the transitional period.
With reference to some of the remarks of the Delegate for Czechoslovakia, he suggested that we should not try and formulate rules at this stage, or at least not particularly detailed rules, but that we should wait for experience. I think there is a good deal in that, but I am concerned that the State-trading enterprises should not be allowed such greater freedom and scope that they assume a dangerous position in relation to countries which are organised on a private enterprise basis.

The Charter does lay down rules for trade that is conducted on more or less a private enterprise basis, and the rules that are laid down for State enterprises should not be in general more loose or provide wider scope than those rules; and therefore I think we must lay down certain rules here.

I do not maintain that we now know in detail everything they should provide for; but we must have certain general principles and rules that must apply to them, otherwise the Charter will be seriously out of balance.

Therefore, I think we cannot simply accept statements here that do not provide for some rules.

CHAIRMAN: The Delegate of Brazil.

Mr. RODRIGUES (Brazil): Mr. Chairman, I want to express our views about the last part of sub-paragraph (b) in the Amendment added to paragraph 1 by the American Delegation.

We should like to see the words "through public offers or bids or otherwise" deleted, because we do not think that this way of dealing with this matter could be workable.

CHAIRMAN: The Delegate of China.

Mr. CHANG (China): Mr. Chairman, although it is mentioned in
the London Report that the view was generally held that a country receiving a loan will be free to take this loan into account as a commercial consideration to implement its requirements abroad, we do not think that it is quite competent that that commercial consideration should cover cases in which loan arrangements are involved; so we would like to see the text as it stands here clarified.
H.E. Dr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman; I think I owe some explanation to the Delegate of Canada. I hope it was not understood from the remarks I made here that we do not want any rules at all. You have seen, from our own amendments, that we are in favour of certain rules. What I thought practical was that we should not have too many detailed rules because the period is too uncertain: the functioning of state enterprises is not yet clear, as the issue is confused to-day as to what actually is the substance of these state enterprises and what is only the consequence of the balance of payments difficulties. That is one point.

The other refers to the transitional period. For the same reason, I think that for a certain time nobody will even notice that there is a certain difference between state enterprises and non-state enterprises, because if they are acting according to commercial considerations there can be practically no difference so long as there are restrictions on exports or imports for reasons of balance of payments difficulties. The difference may only be seen later and that is why we thought that it would be practicable to make very detailed rules afterwards when the differences come to light.

Now, as to the notion of commercial considerations, it is in our laws that state enterprises have to act according to commercial considerations. Of course, in this case, they should not be considered, either for advantages or disadvantages, in another way. They have to act as private commercial enterprises, so they must have the same rights as private
commercial enterprises. It means that they should not be submitted to some special rules which would discriminate between them and private enterprises. Let us suppose, for example, there is a state enterprise in one country and a private enterprise in another country which imports wheat. Now, I could not go to the private enterprise and say, "Why did you buy the wheat, at what price did you buy it, were you guided by commercial considerations or not?" because they would probably say "Mind your own business!" But we feel that there should not be a door open so that any competitor might come and say, "Well, you are a state enterprise. You have to always give a full account of why, what and where you are buying". I think it would be a discrimination against private enterprises, and as we are here to abolish general discriminations, so I would request the same treatment for the state enterprises.
M. C. IGONET (France) (Interpretation): Mr. Chairman, may I support my Czechoslovakian colleague by giving two examples which I think illustrate what he had in mind. First of all, let us take the example of a French company which has a monopoly of electrical power in our country. This company has to buy equipment, and it may call upon foreign corporations to supply this equipment. Now, if the French company has to be guided solely by commercial considerations, it might be argued that it should buy at equal quality the equipment which will be offered at the lowest price, and which could be supplied in the shortest possible time. However, there are other considerations which might influence the decision taken by the company, just as it might have influenced the decision taken by private corporations in the same juncture. For instance, we may want to buy this equipment in Switzerland because of certain facilities of payment which may be given to the French State Company by the government of this country. For instance, there may be a provision for the supply of electrical power at a later date. This is why, in certain cases, just as a private corporation would, so a state trading enterprise of this kind might be prompted to accept a bargain which perhaps could not be construed as being a deal dictated by a strictly commercial consideration.

Again, we might take the example of a French refining company in which buys oil from other corporations/which it may have, for instance, a certain financial interest. Perhaps, in such a case, the French refining corporation would be prompted not to buy at the lowest possible price, but from another corporation in which it holds an interest, so that the deal might prove profitable to both, and in particular to the French corporation. In this case oil would be perhaps bought, not at the lowest possible price, but for other reasons which in the end would—as in the case of a private
In this case corporation - prove beneficial to the company concerned. We do not want it to be objected to the company in question, that because it is a state trading enterprise it should not be allowed to do so, and should be compelled to buy at the lowest possible price leaving aside all other considerations which might influence its decision.

These are two examples which I think clarify the position.

Mr. J.J. DEUTSCH (Canada): Mr. Chairman, I am grateful to the French delegate for stating in greater detail what he had in mind. I agree with him, that the examples which he has given do not necessarily require the state enterprise to buy at the lowest price. I do not think that commercial considerations should be defined in such narrow terms. I do not think that "commercial considerations" is intended to mean simply the lowest price. I think it means all the considerations that might influence any commercial transaction, and I think the case cited by the French delegate, in which he explains that there are other considerations than low price, are perfectly legitimate, and I think any enterprise would take all these things into account, and I certainly would agree myself that all those considerations must be taken into account. We must not simply interpret "commercial considerations" as meaning lowest price.

The other point to which he referred was the case where the company could prefer to buy in Switzerland because of the possibility of making payment in Switzerland, whereas there is no such possibility elsewhere. It seems to me that the rules that should govern in that case are ones that are to be laid down in the balance-of-payments section of the Charter, and presumably this section would take care of the situation, or should take care of it, if that is considered desirable. I do not think the rules of state trading should
include the provisions having to do with balance-of-payments difficulties. It seems to me that the rules regarding balance-of-payments difficulties should apply equally to state trading enterprises as they do to private enterprises, and what can be done under the one, can be done under the other equally. But we should not confuse the issue by having balance-of-payments considerations in two places of the Charter. They should be dealt with solely under the balance-of-payments provisions.
Mr. L.C. WEBB (New Zealand): Mr. Chairman, I wanted to raise a point in connection with the suggested change of title which the United States Delegation has made. It is not merely a point of wording. It is proposed to change the title from "Non-discriminatory administration of State-trading enterprises" to "Most-Favoured-Nation treatment by State-trading enterprises."

It seems to me that the change gives a sort of precision to the title which, in fact, is not present in the text, because the text says: "... act in a manner consistent with the principle of general Most-Favoured-Nation treatment which is applied in Article 14 ...". In other words, we are not precisely requiring Most-Favoured-Nation treatment by State-trading enterprises; we are requiring State-trading enterprises to act consistently with the principle of Most-Favoured-Nation treatment.

I would suggest that possibly the best title for this article would be: "The administration of State-trading enterprises," and on that point I must confess that I find some difficulty in discovering for myself what exactly is meant by the application of Most-Favoured-Nation treatment to State-trading enterprises.

A minute ago there seemed to be some agreement here that the term, commercial considerations, which is referred to in (e) of the United States draft, does imply that State enterprise is required to buy or sell at the best price. But if that is the case, is that altogether consistent with what we generally regard as Most-Favoured-Nation treatment?

There are one or two other points which I would make in connection with the United States re-draft, which are perhaps more a request for information than anything else.
I find the expression "such enterprise shall", and I wonder whether that is a permissible wording, seeing that it is not the enterprise which is the Member of the International Trade Organization but the State concerned, and it seems to me that it is necessary to go back to the original text and refer to the Member concerned rather than to the enterprise.

There is also a significant difference between the United States text and the New York Draft, in that the United States re-draft eliminates the last phrase of Paragraph 1 of Article 31 of the New York Draft - "having due regard to any differential customs treatment maintained consistently with the other provisions of this Charter."

It seems to me that, having regard to the reasons which led that phrase to be put in in the first place, it is probably still necessary that it should remain there.

I would like also to associate the New Zealand Delegation with what has been said against the inclusion of the words "through public offers or bids." It is true that "or otherwise" occurs, but it seems to me that the specific reference to public offers or bids is inappropriate, and particularly inappropriate when we come to consider the scale of operations of many State enterprises.

I would finally agree with Dr. Augenthaler that we should beware of attempting to legislate too precisely to meet the case of State enterprises, not out of any feeling that State enterprises should be put in a privileged position, but rather from the feeling that the first essential of sound legislation is that we should be thoroughly familiar with what we are legislating about.
I think it is true that most of the countries represented here have had a somewhat limited experience of State trading and therefore it is not easy to understand precisely the nature of the problem with which we are dealing, and I think Dr. Augenthaler has made very well the point that we may very easily impose a greater degree of restriction on the activities of State enterprises than we are imposing upon the activities of private enterprises.
CHAIRMAN (Interpretation): The delegate of the United States.

Mr. JOHN W. EVANS (United States): I feel that several points made by the New Zealand delegate should be answered. The first matter raised was in connection with our proposed change in the title of this Article. We do not feel at all strongly about the change, but we thought it was a logical change in view of our redrafting of the Article, in the way the expression "most-favoured-nation" was used. For our part we should be perfectly happy to go back to the title in the New York draft if it is preferable to the other delegations.

I do not believe that the wording proposed by the New Zealand delegate would be an improvement, because the structure of section E now seems to be one in which two related subjects are discussed; the first is the question of the obligation of the most-favoured-nation principle to the operations of State enterprises, and to balance a similar principle in connection with privately owned enterprises. The second is in Article 32 an effort to balance to some extent the obligation on the part of some countries to negotiate in connection with the expansion of trade. Whatever titles are used they should make clear the difference between these two conceptions.

With regard to the second point raised, we did make a change in the wording in omitting the words "having due regard to such differential treatment", and so forth. It was our belief that that wording was unnecessary as it was included in the concept of commercial considerations. We may be wrong about that.

Another point made by the New Zealand delegate has to do with
the use of the wording "such enterprise shall", instead of the words originally proposed. Actually that is not as radical a change as he seems to think, because in the New York draft the words "such enterprise" were the subject of the second sentence. We would have no objection to an effort to recast the paragraph in such a way that the member becomes the subject of the obligation, but that would require a number of other drafting changes.

The most important point and the one on which I feel much more strongly than any of those I have mentioned so far, was made by the New Zealand delegate who felt we might be going too far in legislat­ing to cover the operations of State trading enterprises at a stage when we do not know too much about those operations. In the first place, I do not feel that the New York draft or our proposed amend­ment did go very far towards legislating for the operation of State enterprise, but it seems to us it went at least in the direction of the balance which is absolutely essential to providing some means whereby the members who have State trading enterprises can live up to the same obligations which members who carry out their trade by other means are going to observe. A number of delegates have referred to what seems to them the imposition in this draft of more rigid requirements than those applied by the Charter to private enter­pris­es. That is based on a misunderstanding of one of the purposes of section E: when we compare the obligations placed upon an individual privately owned enterprise and the obligation placed on a State enter­prise in this Chapter, we have no means completed the comparison which is operating - the comparison between the obligation of the member who deals through private trading and the obligation of the member who deals wholly or in part through State enterprises.
The Members who carry out their trade through private firms will have accepted in Chapter V obligations with respect to the negotiations on tariffs, obligations with respect to quotas which are completely inapplicable in the case of a state enterprise, because a similar undertaking by the Member carrying out its trade through state enterprises would necessarily be meaningless, and that is the reason why there must be rules in this section applied to state enterprises which do not apply to private enterprises in other parts of the Chapter.

I think that is all I have to say, Mr. Chairman.

CHAIRMAN: Dr. Holloway.

DR. J.E. HOLLOWAY (South Africa): Mr. Chairman, there are two points involved in the drafting which might have the special consideration of the Committee to which no doubt these Articles will be referred.

I think on the whole it is probably an improvement to refer in this Article, as the United States suggest, to Article 14. It does, however, at the stage at which we are now, produce difficulties of interpretation, difficulties of understanding where we are, because it refers to measures which may be taken under Article 14; Article 14 again refers to measures which may be taken under Article 15; and Article 15 again refers to measures which may be taken under Article 24, so we do not know just what the limits of one's commitments are, and I would suggest that the Drafting Committee might, before they deal with it in the manner suggested by the United States which seems to have certain advantages, just link up with what the Committee on Article 14 has done in the draft to that Article.
The second point is likewise one of drafting, but in which the change of drafting may make a very considerable change in substance. It is in paragraph 2 of the Article. In the New York Draft, there would seem to be a mis-print somewhere, because in line 2 we read "purchases of imports", in the next line "purchases or imports", and lower down again "purchases or imports". The Czechoslovakian amendment has eliminated the words "purchases or imports", and the United States amendment has kept the words "purchases or". It seems to me that the United States amendment, dealing as it does with an Article dealing with the most-favoured-nation treatment, (or, if we take the New York Draft with non-discrimination), is the correct one. I would like to draw attention to the essential difference which comes in if we take either the New York Draft or the Czechoslovakian amendment.

In both these cases we are departing, then, from the main subject of this Chapter and I suggest that might also be considered by the Committee which deals with the Article.
CHAIRMAN: The Delegate of Norway.

Mr. OFTEDAL (Norway): Mr. Chairman, the Norwegian Delegation finds the New York Draft of Articles 31 and 32 satisfactory, except may be for one point.

In paragraph 4 it is stated that due regard shall be had to the fact that some monopolies are established and operated mainly for revenue purposes.

The Norwegian Delegation believe that this paragraph should be extended also to include monopolies of social, cultural and humanitarian purposes, and we have proposed an Amendment to that effect. What we have specially in mind is the sale of alcohol or liquors. After the last war we had just like the United States prohibition against the sale or consumption of alcohol. This was given up when the sale of alcohol was converted to a monopoly, which uses a price policy as part of a regulatory machinery. This monopoly has worked very well, according to our opinion, and it has become an integral part of the social welfare policy of the Norwegian Government, and the Norwegian Government would be extremely reluctant in changing this policy, which it considers very successful.

We believe that before that monopoly is established, both these purposes should be excepted from the provisions of Article 32.

CHAIRMAN: The Delegate of Czechoslovakia.

Mr. AUGENTHALER (Czechoslovakia): Mr. Chairman, I have the feeling that we are a good way on to reaching an agreement. That our points of view are not so far away each from the other's; and, of course, there are very important questions which we have discussed, and I think that we would need two
hours to think that out, and that is why I would like to move the closure of the Debate for to-day, just to afford the Members the opportunity of reflecting on all that has been spoken to-day.

CHAIRMAN (Interpretation): I think, Gentlemen, that we would have everything to gain by accepting the Czechoslovak proposal, since it would afford him an opportunity of consulting with his U.S. colleague with a view to presenting a draft Amendment.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): I would like to say this, that the U.S. Amendment extends considerably beyond Article 31, and I had some large Amendments to Article 32, and I cannot help thinking that the Amendments to Article 32 are linked with the others, and it may be desirable to consider Article 32 as well.

I feel, therefore, that it may be well to take in Article 32 before we re-consider Article 31.
CHAIRMAN (Interpretation): May I ask a question of Mr. Augenthaler? Does he intend in his new amendment to cover only Article 31, or to cover also Article 32?

H.E. Dr. Z. AUGENTHALER (Czechoslovakia) (Interpretation): Mr. Chairman, I only had in mind Article 31. I meant that Article 32 should be discussed perhaps tomorrow or at some later date.

CHAIRMAN (Interpretation): In that case, gentlemen, I think we can adjourn the meeting now, it being understood that we will take up tomorrow the new amendment which is to be presented by Mr. Augenthaler and the representative of the United States, and we will resume the discussion of Article 32.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I would like to ask whether it would be possible to have an opportunity of considering the new text beforehand? It is rather difficult to discuss a text one sees for the first time at the meeting.

CHAIRMAN: (Interpretation): I have the same wish as yourself, and it is just with a view to being able to receive the text before the meeting that I am suggesting the adjournment of our meeting now.

The meeting stands adjourned.

(The meeting rose at 5.10 p.m.)